



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable George H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas

Dear Sir:

Opinion No. O-3496

Re: Meaning of the word "new"  
as used in the term "new  
cosmetics" in House Bill  
8, 47th Legislature.

In your letter of May 5, 1941, you direct our attention to Section 1 of Article 10, House Bill 8, Forty-seventh Legislature, which, among other things, levies a gross receipts tax on "new cosmetics", and you request our opinion as to what significance should be given to the word "new", as so used.

The first paragraph of said Section 1, House Bill 8, reads:

"Each person, partnership, association, or corporation selling at retail new radios or new cosmetics, shall make quarterly on the first days of January, April, July, and October of each year, a report to the Comptroller, under oath of the owner, manager, or if a corporation, an officer thereof, showing the aggregate gross receipts from the sale of any of the above-named items for the quarter next preceding; and shall at the same time pay to the Comptroller a luxury excise tax equal to two (2) per cent of said gross receipts as shown by said report."

It is noted that the same tax is levied on gross receipts from the sale of "new radios." We do not believe that a different meaning can be given the word as it modifies radios from its meaning in the term "new cosmetics." And, as to radios, it quite evidently means new radios as distinguished from used or second-hand radios. While we must confess that the idea of a second-hand cosmetic seems a bit unusual to us, nevertheless, we are of the opinion that the

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term "new cosmetics", means new as distinguished from used and second-hand cosmetics.

Yours very truly

APPROVED MAY 16, 1947

ATTORNEY GENERAL OF TEXAS

*Glenn R. Lewis*

FIRST ASSISTANT  
ATTORNEY GENERAL

By *Glenn R. Lewis*  
Glenn R. Lewis  
Assistant

GRL:LM

